<u>**REMARKS**</u>

All claims pending at the time of the last Office Action were rejected as anticipated by U.S. Patent 6,578,066 to Logan et al. ("Logan").

Herein, claims 27-69 are cancelled, claims 1, 2, 4-7, 9, 10, 13-15, 17, 19, 20, 22, 23, and 26 are amended, and claims 70-101 are added. Please consider the amended claims and the new claims in light of the remarks that follow.

Please note that most of the amendments to the existing claims have been made to broaden or clarify the claims, and not to distinguish Logan. Those amendments made to distinguish Logan will be highlighted in the remarks.

A. Claim 1

<u>Claim 1</u> has been amended, and now includes the following terms:

> <u>receiving, at said load balancing switch, a plurality of network addresses</u> generated by an authoritative domain name system server in response to a query regarding a domain name, <u>the authoritative domain name system server and the load balancing switch being separate network devices</u>.

These underscored features are not present in Logan. In particular, Logan states:

> The distributed-server network switches 106, 108, and 110 are organized as distributed sites, where each acts as an Authoritative Name Server for a sub-domain, e.g., "www.alteon.com." Each such distributed site is capable of responding to a domain name server query with the IP-address identities that correspond to "www.alteon.com."

Col. 4, lines 30-36. In other words, each of Logan's distributed-server network switches 106, 108, and 110 generates their own network addresses in response to a query regarding a

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domain name. Logan's distributed-server network switches 106, 108, and 110 do not "receive" network addresses from an authoritative domain name system server, which claim 1 requires to be a "separate network device" from the "load balancing switch." Accordingly, Logan's distributed-server network switches 106, 108, and 110 cannot perform the "receiving" step of claim 1, nor do distributed-server network switches 106, 108, and 110 meet the requirement that "the authoritative domain name system server and the load balancing switch [be] separate network devices." Accordingly, claim 1 and its dependent claims are not anticipated.

B.   Claim 7

Claim 7 is dependent on claims 1 and 2, and includes a further feature, not shown in Logan, of "recording, at each said site switch, a round trip time indicative of elapse time for exchanging messages between the respective site switch and a client machine of said computer network." Exemplary embodiments of this feature are discussed in the application at page 9, line 23 *et seq.* and at page 12, line 26 *et seq.*

Logan does not perform such a step. In particular, Logan's distributed-server network switches 106, 108, and 110 of Fig. 1 consider "a list of the available servers according to currently measured response times and throughputs." Col. 5, lines 12-14. This measurement of response times and throughputs involve the servers, and do not involve a "client machine." Similarly, with respect to main site 202 of Fig. 2, Logan states that "[b]y executing a configurable iterative health-check to each remote server 204, 206, 208, 210, and 212, a main site 202 can learn the average response times and content availability in preparation for a hand-off." Col. 6, lines 22-25 et seq. Again, this measurement of response times involves the servers,

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and do not involve a "client machine." Accordingly, Logan does not show claim 7's step of "recording … a round trip time … between the respective site switch and a client machine." Hence, there is no anticipation of claim 7 nor of its dependent claim 8.

C.   Claim 8

Claim 8 depends on claim 7, and further defines the "round trip time" of claim 7 as "an actual recorded time period between the respective site switch <u>receiving a connection request from said client machine and the respective site switch receiving an acknowledgement of a connection from said client machine</u>." See, e.g., page 9, line 28 *et seq.* These features are not found in Logan. Logan does not involve a "client machine, " as stated above for claim 7.

D.   Claim 11

Claim 11 is dependent on claim 1, and includes a further feature, not shown in Logan, that "said arranging selects a network address of a least recently selected host server for placement at a higher position in said ordered list." Logan does not show this feature. It is true that Logan states, with respect to main site 202 and remote servers 202-212 of Fig. 2, that "[t]he 900 msec response of defined remote server 210 is more attractive that the slower responses of the others." Col. 6, lines 32 *et seq.* However, the Examiner is incorrect to infer from this statement by Logan that the "host with 900 msec response time is the least selected host." The fact that any of Logan's remote servers has a faster response time that the other servers <u>does not</u> mean that the faster server necessarily or inherently is a "least selected host." *See* Office Action, p. 9. Logan does not state or imply that a faster response server is a

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"less selected host." A faster response time could be the result of a variety of factors completely unrelated to whether the server is a "least recently selected host server," as claimed. Accordingly, claim 11 is not anticipated, because claim 11's feature that "said arranging selects a network address of a least recently selected host server for placement at a higher position in said ordered list" is not inherent in, or shown or suggested by, Logan.

E. Claims 14, 20, 21 and 24

Claim 14 includes the features "said load balancing switch (a) being a separate network device from said authoritative domain name system server … and (c) capable of arranging a list of network addresses received from said authoritative domain name system server." These features are similar to features of claim 1 that were discussed above, and distinguish Logan for the same reasons discussed above for claim 1. Accordingly, claim 14 is not anticipated by Logan.

Claims 20 and 21 include features (e.g., "round trip time" and "client machine") similar to those of claims 7 and 8, respectively, and are not anticipated by Logan for the same reasons stated above for claims 7 and 8.

Claim 24 includes the selection of "a least recently selected host server," as discussed above for claim 11, and is not anticipated by Logan for the same reasons stated above for claim 11.

F. New Claims 70-101

New claims 70-101 are added. These claims do not include the requirement, as in claims 1 and 14, that the load balancing switch be a "separate network device" from an authoritative domain name system server, and do not require receipt of network

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addresses from an authoritative domain name system server. Rather, these claims distinguish Logan on other grounds.

For instance, <u>claim 70</u> includes the step of:

<u>storing</u>, in a load balancing switch of the data network, <u>round trip time data</u>, wherein the round trip time data is a time for exchanging at least one message <u>between a first host server site switch of the data network and a first client machine</u> of the data network.

Logan does not include "round trip time data" involving a "client machine," as discussed above for claim 7. Accordingly, claim 70 distinguishes Logan.

<u>Claim 86</u> includes the step of:

<u>selecting</u>, from a plurality of network addresses responsive to the request, <u>a best network address based</u>, at least in part, <u>on which of the plurality of network addresses has been least recently selected by</u> the load balancing switch as a best network address in response to previous queries.

Logan's distributed-server network switches 106, 108, and 110 do not perform such a "selecting" step based "on which of the plurality of network addresses has been least recently selected," similar to claim 11. Accordingly, claim 86 distinguishes Logan.

<u>Claim 91</u> includes "round trip time data" and a "client machine(s)," and therefore distinguishes Logan for reasons similar to claim 1.
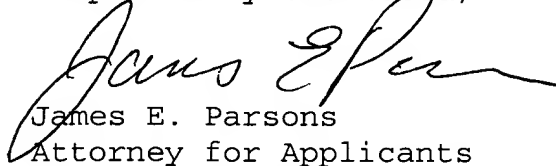
<u>Claim 96</u> includes ordering network addresses based "on which of the network addresses has been least recently selected as a best network address," and therefore distinguishes Logan similar to claim 11.

Finally, <u>claim 100</u> includes "storing … round trip time data" involving "a client machine," and therefore distinguishes Logan for reasons similar to claim 1.

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CONCLUSION

The now-pending claims are submitted to be allowable over Logan. Please direct questions or comments to the undersigned at (408) 941-7353.

Respectfully submitted,

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